

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

<p>UNITED STATES OF AMERICA, Plaintiff, v. KEVIN PATRICK SMITH, Defendant.</p>	<p>CRIMINAL COMPLAINT MJ-23- 16 -M-KLD THREATS TO INJURE AND MURDER A UNITED STATES SENATOR Title 18 U.S.C. § 115(a)(1)(B), (b)(4) (Penalty for Threat to Murder: Ten years of imprisonment, \$250,000 fine, and three years of supervised release) (Penalty for Threat to Assault: Six years of imprisonment, \$250,000 fine, and three years of supervised release)</p>
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I, Samantha Kilbride, being first duly sworn, depose and say that the following is true and correct to the best of my knowledge and belief:

- a. That in or about January 30, 2023, and February 10, 2023, in Missoula County, in the State and District of Montana, the defendant, KEVIN PATRICK SMITH, knowingly threatened to assault a Member of Congress, in violation of 18 U.S.C. § 115(a)(1)(B), with the intent to impede, intimidate, or interfere with their official duties while engaged in the performance of official duties, or with intent to retaliate against such official on account of the performance of official duties.

INTRODUCTION AND AGENT BACKGROUND

1. I am a duly sworn Special Agent for the United States Capitol Police and have been so employed since March 2020. Previously, I worked as a uniformed law enforcement officer for the United States Capitol Police for

approximately four years. I have a Bachelor of Arts degree and a Master's of Science in Psychology. I have received approximately 26 weeks of uniformed law enforcement training and approximately 16 weeks of advanced criminal investigations training on the federal level. I have conducted numerous investigations involving violations of U.S. Code with the majority of my experience stemming from investigations involving threats to Members of Congress.

2. This affidavit is based upon my personal participation in the investigation described below, my training and experience, my review of records, information received from interviews, and information obtained from other law enforcement officers and investigators. Because this Affidavit is for the limited purpose of establishing probable cause to support the arrest of KEVIN PATRICK SMITH, it contains only a summary of the relevant facts. I have not included each and every fact known to me concerning this investigation.

PURPOSE OF AFFIDAVIT

3. I, along with others, am currently conducting an investigation into SMITH, who voiced threats against Senator Jon Tester, with the intent to influence, impede, or retaliate against him, as a current sitting Federal official, by threatening to assault and kill him.

PROBABLE CAUSE

4. Since assigned this case on January 30, 2023, I have received information that SMITH contacted Senator Jon Tester's district office in Kalispell, Montana, and left several voicemails containing threats against Senator Jon Tester, with the intent to influence, impede, or retaliate against him.

5. On January 30, 2023, the State Director of Senator Jon Tester's office reported six concerning voicemails left by the phone number 406-309-4884. They reported the unknown individual has called their office dozens of times since the end of 2022, but the caller has never left their name or information. In one of the reported voicemails, the caller stated the following threats over voicemail: "Hey, Little John, and its time here your decrepit want to be pedophile loving FBI to come to my door so I want you to understand something. I want you to understand something very, very clearly. It's 100% Clear. There is nothing I want more than to have you stand toe to toe with me. You stand toe to toe with me. I rip your head off. You die. You stand in a situation where it is physical between you and me. And you die. I want you to understand that right now. There is no, you can send your fucking decrepit FBI. I don't care. You try your little games. You're a little bullshit. But if you stand in front of me, and you push, you die. I win every time. You don't have a chance. You suck. You suck dick. You're a pedophile. You support a pedophile, and I will not hold back. I will never stop. You suck

ass. And I would love to destroy you and rip your fucking head from your shoulder. That is no trouble. Call that a threat. Then the FBI. Send your little decrepit pieces of shit my way.”

6. On the same date, a second voicemail from the same phone number, 406-309-4884, stated the following threats over voicemail: “The only way you win is to stand toe to toe. Stand right in front of me. I’m sure that toe to toe is a hard thing for you to understand. If you can’t figure that one out. Stand in front of me. And you and I have it out. You do what you’re gonna do. Please don’t do anything physical. Because I’ll kill you. I’ll rip your fucking head off. I will destroy you.”

7. On the same date, a third voicemail from the same phone number, 406-309-4884, stated the following threats over voicemail: “Little John, Little decrepit piece of shit John, little crybaby, tyrannical piece of shit John, I need you to understand something. Everything. Everything depends on how you respond. If you are capable of having a conversation, then we can have a conversation. You’re still gonna lose. All of your democratic ideals will still lose, and they’ll still go off the side windows. But if you ever, ever attempt something physical, if you ever try, don’t do it. I will rip your head off. I will kill you. There is no doubt about it. You are a piece of shit. If you cannot have a coherent conversation, then you don’t get to live. If you have to resort to a physical confrontation, you lose.

You will lose in an intellectual conversation. You will lose in every other aspect.

But if you try something physical, I will destroy you.”

8. On the same date, a fourth voicemail from the same phone number, 406-309-4884, stated the following threats over voicemail: “I want your dumbass to do something. Try it. See what happens. Let’s see how this goes. I would love to see the outcome. The situation here is I would love to fucking kill you. I would love to see your FBI at my door. I would love to see something in the news.”

9. On the same date, a fifth voicemail from the same phone number, 406-309-4884, stated the following threats over voicemail: “Little John. Little insignificant piece of shit John. I missed something. When I threatened you, I threatened you on purpose. But I missed something. You’re not the only person that can start a physical altercation. Your degenerate piece of shit FBI or Secret Service. Whoever is hanging around you? They don’t have a chance. If they threatened me while you are in my presence, you die. If they play their games while you are in my presence, you die. And you understand this. Your only way of not dying is to stand toe to toe and have a conversation like a real man. The rest of these fuckers I already know they are decrepit. They are criminal. They are lost. I have no interest in whether they live or not. I have no interest in whether I live or not. You stand toe to toe, real man.”

10. On the same date, January 30, 2023, Analyst Jenna Blackford, employed as analyst for United States Capitol Police, was assigned to identify the subscriber using the phone number 406-309-4884. The caller was fully identified through open source and law enforcement databases as Kevin Patrick SMITH.

11. Due to the threatening nature of the statements, I, Special Agent Kilbride, contacted the Kalispell Police Department and made the department aware of the current threat investigation regarding an individual living in their jurisdiction. For the welfare and safety of the Senator and his staff members, additional directed patrols were requested to be in the area of the district office, 8 3rd St E, Kalispell, MT 59901. Additionally, Special Agent Kilbride contacted the Big Sandy Sheriff's Office, the jurisdiction the Senator lives in, and briefed them on the current investigation. Their department agreed to have additional patrols around the area of the Senator's home and provided their patrols with information of SMITH for awareness.

12. The staff members of the district office were updated with a summary of the investigation thus far and were provided a photo of SMITH for their own safety and awareness. Due to their fear for their safety, the majority of the Kalispell district office has not wanted to work in their office out of concern SMITH will come to the office and harm them. Since the initial phone calls, the

Senator and his staff members have considered new options for security for both his residence and for his office directly due to the threats made by SMITH.

13. On the same date the voicemails were reported, Special Agent Kilbride submitted an interview request for SMITH to be interviewed by the FBI. On February 1, 2023, Special Agent Jason Grende and Special Agent Jacob Furda attempted to locate and interview SMITH but were unable to contact him. Later on the same date, at approximately 3:50 p.m., Special Agent Trevor Hare (FBI), FBI Special Agent Jacob Furda (FBI), Task Force Officer Ryan Stoll (FBI), and Task Force Officer Jody McLeod (FBI) attempted to contact SMITH at his listed residence, 1015 5th Avenue East, Kalispell, Montana, 59901. The agents spoke with his spouse, Holly, until SMITH arrived. The agents identified themselves to SMITH and stated the purpose of the interview was about phone calls he made to Senator Tester's office. Smith replied, "I believe I've called him a few times, but I'm not sure when." Special Agent Hare asked if SMITH intended to scare Senator Tester when he called him, or if he desired for him to change his politics. SMITH replied he was unsure but wished Senator Tester would just do things right. Special Hare admonished SMITH to stay away from threats of physical violence if he called a government official in the future. At this point, SMITH denied making any threats of physical violence. The phone number SMITH stated was a good number for him to be reached appears to be one and the same as the phone number

used to leave the threatening voice messages at Senator Tester's Kalispell district office.

14. After his contact with law enforcement, SMITH continued to call the Kalispell district office several times a day. On February 11, 2023, the Chief of Staff of Senator Tester's office forwarded several concerning voicemails SMITH left on or about the dates of February 10, 2023, and February 11, 2023.

15. In a voicemail received on or about February 10, 2023, SMITH stated the following on a recorded voicemail: "Don't pull the fucking trigger. I want you to understand. If I ever pull my trigger. I know what dies." In another voicemail received on the same date, he stated, "No one with any understanding of anything pulls the trigger. Unless they know what they're shooting at. I guaran-goddamn-tee you. My trigger doesn't get pulled until I know what I'm shooting at. And when I know what I'm shooting at, and I've decided its dead, it gets pulled. And there's no if ands or buts about it. And there's no coming back from that." In another voicemail received on the same date, he stated, "Don't shoot shit unless you know what it is. I know who you are."

16. On February 13, 2023, SMITH continued to call the office and left several concerning voice messages. In one of the reported voicemails, he stated the following: "It is important that you understand that I won't live under your

rule. You have no concept of decency, you're pedophiles, and you're criminals. If it becomes time that I die, I'd take a significant number with me."

/s/ Samantha Kilbride

Samantha Kilbride
Special Agent, USCP

SUBSCRIBED to and SWORN to on the phone consistent with Fed. R. Crim. P. 4.1 on February 17th, 2023.

Kathleen L. DeSoto

Kathleen L. DeSoto
United States Magistrate Judge